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Supreme Court, U.S.
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No. 07-1189

In The
Supreme Court of the United States

CHARLES HAINS and DANIEL MCSHANE,
Petitioners,

v.

JOSEPH MICHAEL LOGSDON,
Respondent.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

PETITIONERS' REPLY BRIEF

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June 12, 2008

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REPLY BRIEF FOR THE PETITIONER

The brief in opposition presents two flawed arguments.

First, the Petition does not miscast an issue of fact. Respondent argues that nothing in the record suggests that the victim was either known or credible. This is not true.

The record shows that the victim who called the police was known. The complaint alleges that Debi Jackson, the CWS clinic director, reported the first incident. The complaint provides that another employee of CWS reported the second incident. These were not anonymous calls by unidentifiable persons. Rather, the callers identified who they were and where they were calling from (CWS).

The respondent argues that nothing in the record speaks to the credibility of the victim at all. But in both incidents the callers identified the suspect and informed the police of his presence at CWS. When the police arrived, the suspect was present. This corroborated the reports and spoke to the credibility of the victim.

In a footnote, Respondent offers that conflicts between abortion clinics and pro-life activists on nearby sidewalks are highly polarized situations. This is true. But then he concludes that a reasonably trained police officer could not determine probable cause in such situations by listening to only one side of the story. We disagree. When a known, credible victim calls the police to report a crime, probable cause exists

at that moment. Probable cause is simply a probability that a crime has been committed, not a certainty. Where a known, credible victim reports a crime, law enforcement should be permitted to rely on that report to make an arrest.

Second, there is conflict and confusion among the courts on the issue of probable cause.

By way of example, in *Brodnicki v. City of Omaha* a nine-year-old victim provided police with a description of a potential abductor and the license plate of his car. Police traced the license plate to Brodnicki, showed him to the girl, and she identified him as the man who tried to abduct her. Brodnicki denied that he tried to abduct the girl and offered an alibi. He asserted that the police had an obligation to investigate his alibi before making an arrest. The Eighth Circuit disagreed: "The officers were not required to conduct a mini-trial before arresting Brodnicki." *Brodnicki v. City of Omaha*, 75 F.3d 1261, 1264 (8th Cir. 1996). The police received the report of a known, credible victim: they had no duty to further investigate.

Unlike the *Brodnicki* and other courts, the Sixth Circuit would require the police to conduct a trial-type investigation prior to making an arrest. Here, an employee and the clinic director of CWS called the police to report a crime—criminal trespassing. The employee and clinic director of CWS provided identification of the suspect. Furthermore, they indicated he was still present on the sidewalk in front of the property. The police responded to the scene. When they arrived, they discovered Logsdon where he

was reported to be. As a result, the officers had the report of a known, credible victim of an alleged crime. The officers had probable cause to arrest. They should not be required to conduct a mini-trial to weigh the credibility and veracity of the two "highly polarized" sides.

Resolving this case will mark a brighter line for law enforcement officers. When a known, credible victim reports a crime, law enforcement should not be required to conduct a mini-trial before making an arrest.

Respectfully submitted,

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